

EXHIBIT 4

THE HONORABLE MARSHA J. PECHMAN

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

REC SOFTWARE USA, INC., a Virginia
corporation

Plaintiff,

v.

HTC AMERICA, INC., a Washington
corporation

Defendant.

Case No. 14-cv-01025-MJP (Lead Case)

**REC SOFTWARE USA, INC.'S
CLARIFICATION, AMENDMENT,
AND SUPPLEMENT REGARDING ITS
DISCLOSURES OF ASSERTED
CLAIMS AND INFRINGEMENT
CONTENTIONS**

REC Software USA, Inc. v.
Casio Computer Co. Ltd.

Case No. 14-cv-1047-MJP (Non-Lead Case)

REC Software USA, Inc. v.
Dell Inc. et al.

Case No. 14-cv-1048-MJP (Non-Lead Case)

REC Software USA, Inc. v.
Huawei Device USA Inc. *et al.*

Case No. 14-cv-1050-MJP (Non-Lead Case)

REC Software USA, Inc. v.
LG Electronics USA Inc. *et al.*

Case No. 14-cv-1053-MJP (Non-Lead Case)

REC Software USA, Inc. v.
Motorola Mobility LLC

Case No. 14-cv-1056-MJP (Non-Lead Case)

REC Software USA, Inc. v.
Samsung Electronics America, Inc. *et al.*

Case No. 14-cv-1059-MJP (Non-Lead Case)

REC Software USA Inc. v.
Sony Mobile Communications (USA) Inc.

Case No. 14-cv-1060-MJP (Non-Lead Case)

REC Software USA, Inc. v.
ZTE (USA) Inc.

Case No. 14-cv-1062-MJP (Non-Lead Case)

**PLAINTIFF'S CLARIFICATION, AMENDMENT, AND
SUPPLEMENT RE: INFRINGEMENT CONTENTIONS**

(2:14-cv-01025-MJP) (Lead Case)

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**REC SOFTWARE USA, INC.'S CLARIFICATION,
AMENDMENT, AND SUPPLEMENT REGARDING ITS DISCLOSURES
OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS**

Plaintiff REC Software USA, Inc. ("Plaintiff") hereby clarifies, supplements, and amends the Disclosure of Asserted Claims and Infringement Contentions ("Infringement Contentions") served by Plaintiff on the defendants ("Defendants") in each of the above-captioned Lead and Non-Lead Cases, as follows:

As set forth in Plaintiff's Infringement Contentions and in Plaintiff's letter to Defendants dated January 9, 2015, Plaintiff seeks a determination of liability and damages only with respect to acts of infringement occurring during the effective term of U.S. Patent No. 5,854,936 (the "936 Patent"), whether comprising the make, use, sale, offer to sell, and/or importation of the accused devices. To the extent the Defendants infringed by offering to sell Accused Devices prior to the expiration of the '936 Patent, Plaintiff asserts that the appropriate damages base should include sales made pursuant to such infringing offers to sell. This information is provided as a clarification, because several Defendants have misinterpreted and mischaracterized Plaintiff's Infringement Contentions.

As set forth in Plaintiff's Infringement Contentions, Plaintiff contends that, prior to the expiration of the patent-in-suit, Defendants infringed the patent by making, using, selling, offering to sell, and/or importing Accused Devices (i) that embodied, incorporated and/or included all of the steps of the claimed method, and (ii) whose operation necessarily and automatically includes every step of the claimed method, all as described in Plaintiff's Infringement Contentions. *See, e.g.*, Infringement Contentions (Case No. 2:14-cv-01025-MJP) at pp. 3-4; ("Defendant[s] [are] liable for direct infringement of the asserted claims. Defendant[s'] Accused Devices include software that dictate the performance of such Accused Devices, including without limitation, automatically performing the steps of the Asserted Claims. Some non-exclusive examples of Defendant[s'] direct infringement include: Making the Accused Devices; Testing the Accused Devices; Using the Accused Devices; Offering to sell the Accused

1 Devices; Selling the Accused Devices; Importing the Accused Devices; and Developing and
 2 testing multi-module programs for the Accused Devices.”). As further explained in Plaintiff’s
 3 Infringement Contentions, Plaintiff asserted “joint infringement” only to the extent that
 4 Defendants contended that they did not infringe because one or more elements of the Asserted
 5 Claims was allegedly performed by a person other than Defendants. Defendants have not made
 6 such a contention, and Defendants have demanded that Plaintiff withdraw all contentions of joint
 7 infringement.

8 In light of the foregoing, Plaintiff hereby withdraws the contentions set forth at the
 9 following portions of its Infringement Contentions: page 4, lines 4-23 (Case No. 2:14-cv-01025-
 10 MJP); page 4, lines 5-24 (Case No. 2:14-cv-01047-MJP); page 4, lines 6-25 (Case No. 2:14-cv-
 11 01048-MJP); page 4, lines 8-26, and page 5, line 1 (Case No. 2:14-cv-01050-MJP); page 4, lines
 12 8-26, and page 5, line 1 (Case No. 2:14-cv-01053-MJP); page 4, lines 4-23 (Case No. 2:14-cv-
 13 01056-MJP); page 4, lines 10-26, and page 5, lines 1-3 (Case No. 2:14-cv-01059-MJP); page 4,
 14 lines 5-24 (Case No. 2:14-cv-01060-MJP); and page 4, lines 4-23 (Case No. 2:14-cv-01062-
 15 MJP). Plaintiff reserves all rights and defenses, including, in response to any argument that
 16 Defendants did not infringe because one or more elements of an Asserted Claim was allegedly
 17 performed by a person other than Defendants, the right to contend that such person performed
 18 such element or elements under the direction and/or control of Defendants. Plaintiff’s
 19 withdrawal of the portions of its Infringement Contentions specified above is not an admission
 20 and is made without prejudice to Plaintiff’s right to later seek leave to amend its infringement
 21 contentions pursuant to Local Patent Rule 124 or other applicable authority.

22 Finally, Plaintiff hereby confirms that, at the present time, it is not asserting infringement
 23 based on the doctrine of equivalents. This confirmation is not an admission and is provided
 24 without prejudice to Plaintiff’s right to later seek leave to amend its Infringement Contentions
 25 pursuant to Local Patent Rule 124 or other applicable authority.

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1 DATED this 14th day of January, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that I caused to be served the foregoing **PLAINTIFF'S CLARIFICATION, AMENDMENT, AND SUPPLEMENT RE: INFRINGEMENT CONTENTIONS** on the following named person(s) on the date indicated below, by U.S. Mail with postage prepaid, to said persons a correct copy thereof, contained in a sealed envelope, addressed to said person at their last known addresses indicated below, and by email to said persons sent to the email addresses indicated below:

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1 DATED this 14th day of January, 2015.

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